

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NOS.1245/90, 532/92, 593/92
AND 3525/98

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

SAROJBEN S SHETTY

Appearance:

MR MG NAGARKAR for MR SN SHELAT for Appellants
NOTICE SERVED for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 05/12/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These are appeals filed by the Ahmedabad Municipal Corporation under section 411 of the Bombay Provincial Municipal Corporation Act, 1949, challenging the judgement and order passed by the lower court in appeal under section 406 of the said Act.

2. The only point which arises in the present appeals and the only point urged before us is a pure question of law, which is popularly known as "tax on tax".

3. The issue which arises for consideration is as to whether the municipal tax payable by the tenant to the landlord under the contract of letting, when paid directly by the tenant to the Corporation, can be included in "Annual Letting Value" as defined in section 2(-A) of the Act. This question was directly in issue and was decided by a Full Bench of this Court in the case of Municipal Corporation of the City of Ahmedabad Vs. Canara Bank, Ahmedabad, reported at 1993(1) GLH page 180.

4. The Full Bench, after an exhaustive analysis of the aforesaid definition of "Annual Letting Value" and the relevant case law on the subject, ultimately came to the conclusion (paragraph 33 of the said decision) that the taxes which are paid directly by the tenant to the Corporation, or paid through the landlord to the Corporation authorities can rightly be treated as components of annual rent, and therefore, can form part of annual letting value as defined by section 2 (1-A) of the Act.

5. The Full Bench, therefore, decided that in a given fact situation where the tenant is bound to pay the municipal taxes to the landlord under the contract of letting, and in order to discharge this obligation pays tax to the Municipal Corporation, thus simultaneously discharging the landlord-owner's obligation to pay tax to the Municipal Corporation, this component and quantum of tax paid directly to the Corporation can be included by the Corporation within "Annual Letting Value" within the meaning of the said section.

6. It, therefore, follows that when municipal tax is assessed upon the "Annual Letting Value", which includes this component of tax, the demand for such tax is justified in law.

7. It, therefore, follows and we hold accordingly,
that the impugned judgement and order is not justified in
law
aforesaid extent.

8. These appeals are therefore allowed to the
aforesaid extent with no order as to costs.

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